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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed
as a separate compilation

LOK SABHA

BILL NO. 88 OF 1992

A Bill to constitute a National Commission for Minorities and to provide for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the National Commission for Minorities Act, 1992.

Short
title,
extent
and com-
mence-
ment.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise, requires,—

Defini-
tions.

(a) "Commission" means the National Commission for Minorities constituted under section 3;

(b) "Member" means a Member of the Commission;

(c) "minority", for the purposes of this Act, means a community notified as such by the Central Government;

(d) "prescribed" means prescribed by rules made under this Act.

CHAPTER II

THE NATIONAL COMMISSION FOR MINORITIES

Constitution of the National Commission for Minorities.

3. (1) The Central Government shall constitute a body to be known as the National Commission for Minorities to exercise the powers conferred on, and to perform the functions assigned to, it under this Act.

(2) The Commission shall consist of a Chairperson and six Members to be nominated by the Central Government from amongst persons of eminence of ability and integrity:

Provided that five Members including the Chairperson shall be from amongst the Minority Communities.

Term of office and conditions of service of Chairperson and Members.

4. (1) The Chairperson and every Member shall hold office for such period, not exceeding three years, as may be specified by the Central Government in this behalf.

(2) The Chairperson or a Member may, by writing under his hand addressed to the Central Government, resign from the office of Chairperson or, as the case may be, of the Member at any time.

(3) The Central Government shall remove a person from the office of Chairperson or a Member referred to in sub-section (2) if that person—

(a) becomes an undischarged insolvent;

(b) is convicted and sentenced to imprisonment for an offence which, in the opinion of the Central Government, involves moral turpitude;

(c) becomes of unsound mind and stands so declared by a competent court;

(d) refuses to act or becomes incapable of acting;

(e) is, without obtaining leave of absence from the Commission, absent from three consecutive meetings of the Commission; or

(f) has in the opinion of the Central Government, so abused the position of Chairperson or Member as to render that person's continuance in office detrimental to the public interest:

Provided that no person shall be removed under this clause until that person has been given a reasonable opportunity of being heard in the matter.

(4) A vacancy caused under sub-section (2) or otherwise shall be filled by fresh nomination.

(5) The salaries and allowances payable to, and the other terms and conditions of service of, the Chairperson and Members shall be such as may be prescribed.

Officers and other employees of the Commission.

5. (1) The Central Government shall provide the Commission with a Secretary and such other officers and employees as may be necessary for the efficient performance of the functions of the Commission under this Act.

(2) The salaries and allowances payable to, and the other terms and conditions of service of, the officers and other employees appointed for the purpose of the Commission shall be such as may be prescribed.

6. The salaries and allowances payable to the Chairperson and Members and the administrative expenses, including salaries, allowances and pensions payable to the officers and other employees referred to in section 5, shall be paid out of the grants referred to in sub-section (1) of section 10.

Salaries and allowances to be paid out of grants.

7. No act or proceeding of the Commission shall be questioned or shall be invalid merely on the ground of the existence of any vacancy or defect in the constitution of the Commission.

Vacancies, etc., not to invalidate proceedings of the Commission.

8. (1) The Commission shall meet as and when necessary at such time and place as the Chairperson may think fit.

Procedure to be regulated by the Commission.

(2) The Commission shall regulate its own procedure.

(3) All orders and decisions of the Commission shall be authenticated by the Secretary or any other officer of the Commission duly authorised by the Secretary in this behalf.

CHAPTER III

FUNCTIONS OF THE COMMISSION

9. (1) The Commission shall perform all or any of the following functions, namely:—

Functions of the Commission.

(a) evaluate the progress of the development of minorities under the Union and States;

(b) monitor the working of the safeguards provided in the Constitution and in laws enacted by Parliament and the State Legislatures;

(c) make recommendations for the effective implementation of safeguards for the protection of the interests of minorities by the Central Government or the State Governments;

(d) look into specific complaints regarding deprivation of rights and safeguards of the minorities and take up such matters with the appropriate authorities;

(e) cause studies to be undertaken into problems arising out of any discrimination against minorities and recommend measures for their removal;

(f) conduct studies, research and analysis on the issues relating to socio-economic and educational development of minorities;

(g) suggest appropriate measures in respect of any minority to be undertaken by the Central Government or the State Governments;

(h) make periodical or special reports to the Central Government on any matter pertaining to minorities and in particular difficulties confronted by them; and

(i) any other matter which may be referred to it by the Central Government.

(2) The Central Government shall cause the recommendations referred to in clause (c) of sub-section (1) to be laid before each House of Parliament along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the Union and the reasons for the non-acceptance, if any, of any of such recommendations.

(3) Where any recommendation referred to in clause (c) of sub-section (1) or any part thereof with which any State Government is concerned, the Commission shall forward a copy of such recommendation or part to such State Government who shall cause it to be laid before the Legislature of the State along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the State and the reasons for the non-acceptance, if any, of any of such recommendation or part.

(4) The Commission shall, while performing any of the functions mentioned in sub-clauses (a), (b) and (d) of sub-section (1) have all the powers of a civil court trying a suit and in particular, in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of any person from any part of India and examining him on oath;

(b) requiring the discovery and production of any document;

(c) receiving evidence on affidavits;

(d) requisitioning any public record or copy thereof from any court or office;

(e) issuing commissions for the examination of witnesses and documents; and

(f) any other matter which may be prescribed.

CHAPTER IV

FINANCE, ACCOUNTS AND AUDIT

10. (1) The Central Government shall, after due appropriation made by Parliament by law in this behalf, pay to the Commission by way of grants such sums of money as the Central Government may think fit for being utilised for the purposes of this Act.

(2) The Commission may spend such sums at it thinks fit for performing the functions under this Act, and such sums shall be treated as expenditure payable out of the grants referred to in sub-section (1).

Grants
by the
Central
Govern-
ment.

11. (1) The Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

Accounts
and
audit.

(2) The accounts of the Commission shall be audited by the Comptroller and Auditor-General at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Commission to the Comptroller and Auditor-General.

(3) The Comptroller and Auditor-General and any person appointed by him in connection with the audit of the accounts of the Commission under this Act shall have the same rights and privileges and the authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of Government accounts and, in particular shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Commission.

12. The Commission shall prepare, in such form and at such time, for each financial year, as may be prescribed, its annual report, giving a full account of its activities during the previous financial year and forward a copy thereof to the Central Government.

Annual
report.

13. The Central Government shall cause the annual report together with a memorandum of action taken on the recommendations contained therein, in so far as they relate to the Central Government, and the reasons for the non-acceptance, if any, of any of such recommendations and the audit report to be laid as soon as may be after the reports are received before each House of Parliament.

Annual
report
and audit
report
to be
laid
before
Parliament.

CHAPTER V

MISCELLANEOUS

14. The Chairperson, Members and employees of the Commission shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

Chair-
person,
Members
and
staff of
the Com-
mission
to be
public
servants.

15. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

Power
to make
rules.

(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:—

(a) salaries and allowances payable to, and the other terms and conditions of service of, the Chairperson and Members under sub-section (5) of section 4 of officer and other employees under sub-section (2) of section 5;

(b) any other matter under clause (f) of sub-section (4) of section 9;

(c) the form in which the annual statement of accounts shall be maintained under sub-section (1) of section 11;

(d) the form in, and the time at, which the annual report shall be prepared under section 12;

(e) any other matter which is required to be, or may be, prescribed.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Power
to remove
diffi-
culties.

16. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

STATEMENT OF OBJECTS AND REASONS

The Minorities Commission was set up in January, 1978 for providing an institutional arrangement for evaluating the safeguards provided in the Constitution for protection of the minorities and to make recommendations for ensuring implementation of the safeguards and the laws.

2. The Minorities Commission with statutory status would infuse confidence among the minorities about the working and the effectiveness of the Commission. It would also carry more weight with the State Governments/ Union territory Administrations and the Ministries/Departments and the other organisations of the Central Government.

3. It has, therefore, been decided to give statutory status to the Minorities Commission by the proposed legislation.

4. The National Commission for Minorities will consist of a Chairperson and six Members.

5. The main task of the Commission shall be to evaluate the progress of the development of minorities, monitor the working of the safeguards provided in the Constitution for the protection of the interests of minorities and in laws enacted by the Central Government or State Governments, besides looking into the specific complaints regarding deprivation of rights and safeguards of the minorities. It shall also cause studies, research and analysis to be undertaken on the issues relating to socio-economic and educational development of the minorities and make recommendations for the effective implementation of the safeguards for the protection of interests of minorities by the Central Government or State Governments. It may also suggest appropriate measures in respect of any minority to be undertaken by the Central Government or State Governments.

6. The Bill seeks to achieve the aforesaid objects.

NEW DELHI;

The 24th April, 1992

SITARAM KESRI,

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for setting up of a National Commission for Minorities. Clauses 6 and 10 provide for expenses to be met by the Commission on various items referred to in those clauses from out of the grants paid to the Commission by the Central Government under clause 10(1) of the Bill.

2. It is estimated that an amount of Rs. 57 lakhs will be required to cover the expenses of the Commission during the year 1992-93. The recurring and non-recurring expenditure which may be incurred during 1992-93 is to be met out of the grants made by the Central Government.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 15 of the Bill empowers the Central Government to make rules to carry out the provisions of the Bill. Such rules may provide for the matters such as—

(a) salaries and allowances payable to, and the other terms and conditions of service of, the Chairperson and Members and of officers and other employees of the Commission;

(b) any matter under clause 9 (4) (f);

(c) the form in which the annual statement of accounts shall be maintained;

(d) the form in, and the time at, which the annual report shall be prepared;

(e) any other matter which is required to be, or may be, prescribed.

2. The matters in respect of which rules may be made are matters of procedural and administrative detail and it is not practicable to provide for them under the Bill itself. The delegation of legislative power is, therefore, of a normal character.

BILL NO. 91 OF 1992

A Bill to provide for the transfer and vesting of the undertakings of Indian Airlines and Air India respectively to and in the companies formed and registered as Indian Airlines Limited and Air India Limited and for matters connected therewith or incidental thereto and also to repeal the Air Corporations Act, 1953.

Be it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Air Corporations (Transfer of Undertakings and Repeal) Act, 1992.

Short title
and com-
mence-
ment.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act.

2. In this Act, unless the context otherwise requires,—

Defini-
tions.

(a) “appointed day” means such date as the Central Government may, by notification in the Official Gazette, appoint under section 3;

(b) “company” means “Indian Airlines Limited” or “Air India Limited” formed and registered under the Companies Act, 1956;

(c) “corporations” means “Indian Airlines” and “Air India” established under section 3 of the Air Corporations Act, 1953 (hereinafter referred to as the principal Act) and “corporation” means either of the corporations.

Under-
takings
of corpo-
rations to
vest in
companies.

3. On such date as the Central Government may, by notification in the Official Gazette, appoint, there shall be transferred to, and vest in,—

(a) Indian Airlines Limited, the undertaking of Indian Airlines;
and

(b) Air India Limited, the undertaking of Air India.

General
effect of
vesting of
under-
takings in
the com-
panies.

4. (1) The undertaking of a corporation which is transferred to, and which vests in, a company under section 3 shall be deemed to include all assets rights, powers, authorities and privileges and all properties, movable and immovable, real or personal, corporeal, or incorporeal, in possession or reservation, present or contingent, of whatever nature and wheresoever situate, including lands, works, workshops, aircraft, cash balances, capital, reserves, reserve funds, investments, tenancies, leases and book debts and all other rights and interests arising out of such property as were immediately before the appointed day in the ownership, possession or power of that corporation in relation to its undertaking, whether within or outside India, all books of account and documents relating thereto and shall also be deemed to include all borrowings, liabilities and obligations of whatever kind then subsisting of that corporation in relation to its undertaking.

(2) All contracts and working arrangements subsisting immediately before the appointed day and affecting a corporation shall, in so far as they relate to the undertaking of that corporation, cease to have effect or to be enforceable against that corporation and shall be of as full force and effect against or in favour of the company in which the undertaking has vested by virtue of this Act and enforceable as fully and effectually as if, instead of the corporation, the company had been named therein or had been a party thereto.

(3) Any proceeding or cause of action pending or existing immediately before the appointed day by or against a corporation in relation to its undertaking may, as from that day, be continued and enforced by or against the company in which it has vested by virtue of this Act, as it might have been enforced by or against that corporation if this Act had not been passed, and shall cease to be enforceable by or against that corporation.

Licences,
etc., to be
deemed to
have
been
granted
to com-
panies.

5. With effect from the appointed day, all licences, permits, quotas and exemptions, granted to a corporation in connection with the affairs and business of that corporation under any law for the time being in force, shall be deemed to have been granted to the company in which the undertaking of that corporation has vested.

Tax
exemption
or benefit
to
continue
to have
effect.

6. (1) Where any exemption from, or any assessment with respect to, any tax has been granted or made or any benefit by way of set off or carry forward, as the case may be, of any unabsorbed depreciation or investment allowance or other allowance or loss has been extended or is available to a corporation under the Income-tax Act, 1961, such exemption, assessment or benefit shall continue to have effect in relation to the company in which the undertaking of that corporation has vested.

(2) Where any payment made by a corporation is exempt from deduction of the tax at source under any provision of the Income-tax

43 of 1961.

Act, 1961, the exemption from tax will continue to be available as if the provisions of the said Act made applicable to the corporation were operative in relation to the company in which the undertaking of that corporation has been vested.

43 of 1961.

(3) The transfer and vesting of the undertaking or any part thereof in terms of section 3 shall not be construed as a transfer within the meaning of the Income-tax Act, 1961 for the purposes of capital gains.

7. Any guarantee given for or in favour of a corporation with respect to any loan or lease finance shall continue to be operative in relation to the company in which the undertaking of that corporation has vested by virtue of this Act.

Guarantee
to be
operative.

8. (1) Every officer or other employee of a corporation (except a Director of the Board, Chairman, Managing Director or any other person entitled to manage the whole or a substantial part of the business and affairs of the corporation) serving in its employment immediately before the appointed day shall, in so far as such officer or other employee is employed in connection with the undertaking which has vested in a company by virtue of this Act become, as from the appointed day an officer or other employee, as the case may be, of the company in which the undertaking has vested and shall hold his office or service therein by the same tenure, at the same remuneration, upon the same terms and conditions, with the same obligations and with the same rights and privileges as to leave, passage, insurance, superannuation scheme, provident fund, other funds, retirement, pension, gratuity and other benefits as he would have held under that corporation if its undertaking had not vested in the company and shall continue to do so as an officer or other employee, as the case may be, of the company or until the expiry of a period of six months from the appointed day if such officer or other employee opts not to be the officer or other employee of the company, within such period.

Provisions
in respect
of
officers
and
other
employees
of cor-
porations.

(2) Where an officer or other employee of a corporation opts under sub-section (1) not to be in the employment or service of the company in which the undertaking of that corporation has vested, such officer or other employee shall be deemed to have resigned.

14 of 1947.

(3) Notwithstanding anything contained in the Industrial Disputes Act, 1947 or in any other law for the time being in force, the transfer of the services of any officer or other employee of a corporation to a company shall not entitle such officer or other employee to any compensation under this Act or under any other law for the time being in force and no such claim shall be entertained by any court, tribunal or other authority.

(4) The officers and other employees who have retired before the appointed day from the service of a corporation and are entitled to any benefits, rights or privileges shall be entitled to receive the same benefits, rights or privileges from the company in which the undertaking of that corporation has vested.

(5) The trusts of the Provident Fund or Pilots Group Insurance and Superannuation Scheme of the corporation and any other bodies created for the welfare of officers or employees would continue to discharge their functions in the new company as was being done hitherto in the corporation. Tax exemption granted to Provident Fund or Pilots Group Insurance and Superannuation Scheme would continue to be applied to the new company.

1 of 1956.

(6) Notwithstanding anything contained in this Act or in the Companies Act, 1956 or in any other law for the time being in force or in the regulations, of a corporation, no Director of the Board, Chairman, Managing Director or any other person entitled to manage the whole or a substantial part of the business and affairs of that corporation shall be entitled to any compensation against that corporation or against the company, as the case may be, for the loss of office or for the premature termination of any contract of management entered into by him with that corporation.

Power
of
Central
Govern-
ment to
give
directions.

9. The Central Government may give to a company directions as to the exercise and performance by that company of its functions, and that company shall be bound to give effect to any such directions.

Power
to
remove
difficulties.

10. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, not inconsistent with the provisions of this Act, remove the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the coming into force of this Act.

(2) Every order made under sub-section (1) shall be laid before each House of Parliament.

Repeal
of
Act 27 of
1953 and
corpora-
tions to
cease to
exist.

11. (1) The Air Corporations Act, 1953 is hereby repealed.

(2) The corporations shall, with the repeal of the Air Corporations Act, 1953, cease to exist.

STATEMENT OF OBJECTS AND REASONS

In the fast developing international air-transport industry, mobilisation of progressively larger funds becomes necessary for all airlines. To meet their growth requirements, Indian Airlines and Air India, both constituted under the Air Corporations Act, 1953 need to tap the capital market for equity funds rather than depend solely on budgetary support from the Government as envisaged under the Act. As a part of the liberalisation set in motion under the new economic policy, private sector investment has also been permitted in the air transport sector. It has, therefore, been found necessary to repeal this Act.

2. The salient features of the Bill are:—

- (a) Repeal of the Air Corporations Act, 1953 (27 of 1953);
- (b) Undertakings of Corporations to vest in two proposed companies, namely, Air India Limited and Indian Airlines Limited. This would involve transfer of assets and liabilities of the two corporations to the two proposed companies;
- (c) All licences, permits, quotas and exemptions to be deemed to have been granted to the proposed companies;
- (d) The tax exemptions or benefits available to the corporations to continue to have effect in relation to the proposed companies;
- (e) Guarantees given for or in favour of the Corporation to any loan or lease finance to continue to be operative;
- (f) Every officer or other employee of the Corporations would become, as from the appointed date, an officer or other employee, as the case may be, in which the undertakings, have vested, with the same terms and conditions of service, etc. with option to resign;
- (g) Power of Central Government to give directions to the companies.

3. The Bill seeks to achieve the above objects.

NEW DELHI;
The 27th April, 1992.

MADHAVRAO SCINDIA.

C. K. JAIN.
Secretary-General.

